

FISCAL MEMORANDUM

SB 3592 – HB 3384

March 18, 2008

SUMMARY OF AMENDMENT (014883): Broadens the definition of “child” to include a viable fetus as a potential victim for purposes of determining the offenses of child abuse, child neglect or endangerment, aggravated child abuse and aggravated child neglect or endangerment. States the legislative intent that this legislation shall in no way affect abortion, which is legal in Tennessee.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$33,875,100/Incarcaration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- Currently, it is an aggravated child abuse and aggravated child neglect or endangerment offense if a controlled substance is used to accomplish the act of abuse, neglect or endangerment. This bill will make it a Class A felony offense for a person, while pregnant, to knowingly use a controlled substance and cause abuse, neglect or endangerment to a viable fetus.
- The Department of Children’s Services had 533 confirmed cases of drug-exposed infants out of 1,328 cases investigated from March, 2004, to February, 2005. The Department of Correction estimates that 25% (133) of these will result in convictions as a result of the child testing positive at birth. Population growth would result in 15 additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 148 offenders. 145 of these persons will be convicted of a Class A felony for aggravated child abuse and aggravated child neglect or endangerment while pregnant and would serve 85 percent of the sentence imposed by the court. The cost per inmate at 17 years is \$389,816.72 (\$62.78 x 6,209.25 days). The cost per inmate in the tenth year is \$229,303.95 (\$62.78 x 3,652.50)

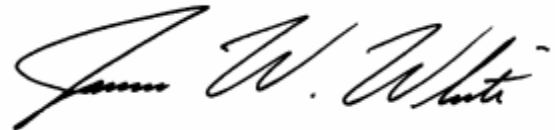
days). The total additional cost for 145 offenders in the tenth year is \$33,249,072.75 (\$229,303.95 x 145).

- The remaining three persons, who would currently be convicted of a Class C felony for aggravated assault involving a viable fetus, would be elevated to a Class A felony at 85 percent and will serve an additional 16.10 years (an increase from 0.9 years to 17.0 years). The cost per inmate at 0.9 years is \$20,637.67 (\$62.78 x 328.73 days). The cost per inmate at 17 years is \$389,816.72 (\$62.78 x 6,209.25 days). The cost per inmate in the tenth year is \$229,303.95 (\$62.78 x 3,652.50 days). The additional cost of increasing the average sentence length from 0.9 years to 17.0 years is \$208,666.28 (\$229,303.95 - \$20,637.67). The total additional operating cost for three offenders in the tenth year is \$625,998.84 (\$208,666.28 x 3).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc